THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.35647,35744,35761,
35811,35922, 35929 of 1997 and WP No.8 of 1998

Dated:21.03.2007

WP No.35647 of 1997

Between

1.D.Simhachalam and another.

.....Petitioners

and

1. The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

...Respondents

W.P.No.35744 of 1997

Between

G.Satti Raju

..Petitioner

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents

W.P.No.35761 of 1997

Between

1.V.Srinivasu and others.

..Petitioners

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents

W.P.No.35811 of 1997

Between

D.Nageswar Rao

…Petitioner

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents.

W.P.No.35922 of 1997

Between

G.Venkateswara Rao

..Petitioner

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents

W.P.No.35929 of 1997

Between

K.Venkateswar Rao

..Petitioner

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents.

WP No.8 of 1998

Between
G.Prabhu Das

..Petitioner

and

The Government of AP rep., by
Its Prl.Secretary, Food and Agrl Dept,
Secretariat, Hyderabad
and others.

..Respondents.

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.35647,35744,35761,
35811,35922, 35929 of 1997 and WP No.8 of 1998

COMMON ORDER:

In all these writ petitions, common questions of fact and law arises for consideration, therefore, they are disposed of by this common order.

It appears that the petitioners were engaged as Attenders/Watchmen in the 2nd respondent-Corporation. While that being so, their services were sought to be terminated stating that their services are no more

required. Therefore, they had earlier filed WP No.14740 of 1993 and batch before this Court and the said writ petitions were disposed of on 3.7.1997 by a common order, directing the respondents herein to consider the cases of the petitioners herein as per G.O.Ms.No.212 dated 22.4.1994. Thereafter, the 2nd respondent-Corporation had considered the cases of the petitioners by applying the guidelines laid down in the said G.O., but rejected the same on the ground that there are no vacancies in the category of Attenders/Watchmen. Therefore, their services were terminated with effect from 15.11.1997 and cheques were issued to the petitioners towards one month's notice pay, retrenchment compensation and gratuity etc. Aggrieved by the same, the present writ petitions are filed.

Learned counsel for the petitioners strenuously contended that the petitioners had put in more than 5 yeas of service as on the

date of consideration their cases i.e., 15.11.1997, therefore, automatically, they are entitled for absorption in the service of the 2nd respondent-Corporation. Now, the respondents state that there were no vacancies in the category of Attenders/watchmen and therefore, their services were sought to be terminated, which is arbitrary and illegal. If there are no vacancies for all these years, how they are engaged by the 2nd respondent-Corporation is not known.

Whereas the learned counsel for the respondents Mr.Ranga Reddy strenuously contended in view of the orders passed by this Court in WP No.14740 of 1997 dated 3.7.1997, the cases of the petitioners were considered as per the G.OMs.No.212, but, as there are no vacancies in the category of Attenders/watchmen, their services were terminated, as per law, after issuing cheque towards one month's notice pay, retrenchment compensation etc., therefore, the same cannot

be said to be either arbitrary or illegal. G.O.Ms.No.212 contemplates availability of a clear vacancy in any cadre for the purpose of absorption of daily wage employees in the 2nd respondent-Corporation. No case is made out calling interference of this Court under Article 226 of the Constitution of India.

From the above, it is clear that some of the petitioners have worked for more than 5 years ~~s as on 25.11.1993,~~ and however, some of them have not put in 5 ~~5~~ years of service as on 25.11.1993. Therefore, their cases were not considered. Apart from the fact that there are no vacancies available in the regular cadre of Attenders/ Watchmen for the purpose of absorbing these petitioners, ~~assuming that~~ the service of 5 years has to be calculated as on 15.11.1997 for absorption as per G.O.Ms.No.212, dated 22.4.1994. T ~~t~~herefore, it cannot be said that the respondents have committed any illegality or irregularity in terminating the services of the petitioners. The

respondents have rightly invoked the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short 'the Act') and paid one month's notice pay in lieu of notice and aspart from the retrenchment compensation, gratuity etc. Therefore, the termination order passed by the respondents cannot be said to be either arbitrary or illegal. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

However, learned counsel for the petitioners stated that the petitioners are to be engaged on daily wage basis since they are entitled for a preferential right as per Section 25-G and H of the Act.

In view of this, the respondents are directed to engage the petitioners as and when there is a work, as a matter of preferential right as per Section 25-G and H of the Act and no other person shall be engaged without considering the cases of the petitioners.

Subject to above observations, all the writ

petitions are dismissed. No costs.

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21-03-2007

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